U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: FEB 19 2013 OFFICE: TEXAS SERVICE CENTER

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the sciences and as a member of the professions holding an advanced degree. At the time the petitioner filed the petition, she was a postdoctoral research associate at . She is now an assistant professor at The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but not as an alien of exceptional ability in the sciences. The director also found that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief from counsel and several supporting exhibits.

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –
>
> > (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer –
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The petitioner claims eligibility for classification as a member of the professions holding an advanced degree and as an alien of exceptional ability in the sciences. The director concluded that the petitioner, whose occupation requires at least a bachelor's degree and who holds a doctorate from qualifies as a member of the professions holding an advanced degree. The director determined, however, that the petitioner had not met the requirements for classification as an alien of exceptional ability. The director also noted that the latter finding is moot, because it does not affect the petitioner's eligibility as a member of the professions holding an advanced degree. Counsel, on appeal, contests the director's conclusion that the petitioner had not established exceptional ability. The

director, however, was correct in observing that the finding was effectively moot. A discussion of the exceptional ability claim would not affect the final outcome of this decision, because exceptional ability is not a requirement for the waiver, and it would not make approval of the waiver more likely. The only issue in contention material to the outcome of the decision is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990, published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

> The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

In re New York State Dept. of Transportation (*NYSDOT*), 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, the petitioner must show that the alien seeks employment in an area of substantial intrinsic merit. Next, the petitioner must show that the proposed benefit will be national in scope. Finally, the petitioner establish that the alien will serve the national interest to a substantially greater degree than would an available United States worker having the same minimum qualifications.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The intention behind the term "prospective" is to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The AAO also notes that the USCIS regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140 petition on December 27, 2011. In an accompanying statement, the petitioner described her latest research:

> Currently I am working on two projects. One is in acoustics, where I am identifying sound source terms of Lighthill's equation and applying the theoretical analysis to a real numerical simulation of certain types of jet nozzles to understand noise generation mechanism. . . . The second project I am also currently working on is calculating the mechanical property of heterogeneous composites in the field of material science. . . . I have been working on this project since I was in the from 2007 to 2009. At that time, the focus was more on hard composite materials such as solid rocket propellant or a pack of micro-sized glass beads, but now I am more interested in applying the methodology to soft materials with phase transitions such as liquid crystal elastomers, etc.

The petitioner then went on to describe the projects in technical detail.

In a letter accompanying the initial filing of the petition, counsel stated that the petitioner's mathematical research has a broad variety of applications:

> **[The petitioner's] research has been crucial to economy, environment, national infrastructure and health** as well as the success of the **NASA**, the Department of Mathematics and the global community in that her work can be utilized in evaluating safety and reliability of bridges, buildings, roads and other infrastructures, predicting forest fires, increasing efficiency of fuel injection, and improving nuclear energy.

(Counsel's emphasis; footnotes omitted). The assertion that the petitioner's work "has been crucial" because it "can be utilized" does not logically follow. The potential for future applications does not imply that the petitioner's work has, in the past, "been crucial" in those areas. Counsel's further assertions in this vein derive from witness letters, which the AAO will discuss below.

With respect to the job offer requirement, counsel states:

> [The petitioner] may not file under EB-2 through a sponsor for three additional reasons. First, **does not, as a matter of policy, sponsor post-doctoral associates.** Second, the inability to articulate the requisite skills in a Labor Certificate is because [the petitioner's] work requires a combination of formal education and practical experience in mathematics. Such a **combination of qualifications cannot be articulated in a Labor Certification.** Third, Being tied to a single employer would **preclude [the petitioner] from doing even part-time consultancy with entities such as the**

as an independent contractor due to the facts that EB-2 self-sponsorship and part-time employment are precluded by the Department of Labor.

Counsel cited no evidence to support any of the above claims. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). The unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner has acknowledged that her postdoctoral position at is temporary, which would mean it is not suitable for permanent labor certification. The AAO will take this information into account, but the petitioner must still establish that a waiver will serve the national interest. *See NYSDOT*, 22 I&N Dec. 218 n.5. The petitioner cannot sidestep the job offer requirement simply by seeking immigration benefits while still undergoing short-term professional training (in this case a postdoctoral appointment) and not yet eligible for permanent employment in her field.

ETA Form 9089, Application for Permanent Employment Certification, facially contradicts counsel's second claim in the passage quoted above. Section H of that form inquires about the required level of education (line 4), the required experience in the job (line 6), and whether there is "an alternate combination of education and experience that is acceptable" (line 8). The AAO, therefore, rejects outright counsel's assertion that "a combination of formal education and practical experience . . . cannot be articulated in a Labor Certification."

Regarding the possibility of "part-time consultancy with entities such as the and " the petitioner submitted no evidence that those entities had expressed any interest in retaining the petitioner's services as a part-time consultant. The entirely hypothetical possibility that the petitioner may pursue consulting work does not qualify the petitioner for the waiver.

Counsel cited "four Post-*NYSDOT* decisions" issued between 1999 and 2003, stating: "All four cases were approved for beneficiaries performing similar research and for whom labor certifications were waived." The type of research performed addresses the "intrinsic merit" prong of the national interest test; it does not follow that USCIS or the AAO created blanket waivers "for beneficiaries performing similar research." None of the four cited decisions are published precedent decisions. Counsel furnished no evidence to establish that the facts of the instant petition are analogous to those in the unpublished decisions. Under the regulation at 8 C.F.R. § 103.3(c), AAO precedent decisions are binding on all USCIS employees in the administration of the Act, but unpublished decisions are not similarly binding.

The petitioner submitted abstracts of various conference presentations and partial copies of six published articles that she co-authored. The petitioner also submitted partial copies of six published articles that contain citations to her work. Four of the six citations are self-citations by the

petitioner's co-authors such as [redacted] Self-citation is a common and accepted practice, but it is not evidence of wider influence. Setting aside the self-citations, the petitioner documented two independent citations of her work in scholarly journals.

A printout from [redacted] announced the publication of one of the petitioner's articles. The [redacted] piece consisted almost entirely of the article's abstract, shown in quotation marks with occasional interjections such as "[a]ccording to the authors . . ." and "[t]he researchers concluded. . . ." The piece has no byline and offers no commentary on the significance of the article; it does little more than report the article's existence.

The petitioner also submitted excerpts from an undergraduate thesis from the [redacted] citing two of the petitioner's articles. The faculty member who oversaw the thesis, [redacted] was also a co-author of both cited articles. As such, the thesis citations are not evidence of wider, independent influence.

The petitioner submitted six witness letters in support of the petition. Five of the witnesses are on the faculties of universities where the petitioner has studied or trained. Professor [redacted] supervised the petitioner's master's thesis at [redacted] South Korea. In a letter dated October 22, 2009, more than two years before the petition's filing date, Prof. [redacted] said little about the petitioner's master's thesis, but praised her subsequent doctoral thesis, stating that the petitioner

> proposed and validated new closure models for Reynolds Averaged Navier-Stokes simulations (RANS), using Large Eddy Simulation. . . . The instability problems has [*sic*] been of great importance for the various application[s], such as predictions of currents in reservoir, passage of forest fires, simulations of fuel jet injection, etc.

[redacted] stated:

> During her PhD, [the petitioner] published five papers in prestigious peer-reviewed scientific journals. Her PhD work can be applied to increase efficiency of fuel injection, helping nuclear energy generation or making safer and more reliable materials used in building bridges, buildings, roads, etc. Furthermore, her recent research on reducing aircraft jet noise by finding the underlying physics must be a great breakthrough in Acoustics. Her master's research is noteworthy, about the approximations of Reimann [*sic*] Zeta function, one of the most difficult functions, closely related to the well-known conjecture, Reimann hypothesis. Her expertise in various applied mathematics fields should be highly respected.
>
> The central thrust of [the petitioner's] work is the statistical and mathematical analysis of experimental and simulation data. Her work rests on two strengths. First is an understanding of the scientific information principles and ideas contains [*sic*] within the data. Secondly, she has become expert in the development of numerical tools to allow computer-based extraction of this information.

Prof. own credentials, as listed in his letter, indicate significant stature in his field. Nevertheless, the outcome of the waiver request hinges on the petitioner. Prof. said nothing about the petitioner's existing impact or influence on her field. Instead, he opined about what the petitioner's research "should be" and "must be." He stated that that the petitioner's "work can be applied to" a number of areas, but did not indicate that others have, in fact, applied it in those ways.

Professor , one of the petitioner's instructors during her doctoral studies at stated:

> Her PhD work . . . on deriving and analyzing "Compressible multi-species multi-phase flow models" requires strong mathematical background since it involves highly complex closure models including different properties of fluids such as miscibility, viscosity, conductivity etc. In terms of her background and research ability, [the petitioner] was a unique researcher working on this project. She contributed a lot to understanding the statistical behavior occurring near the interfaces between two fluids. [The petitioner] applied this work in prediction of forest fires behavior and moving blast type cell closely related to leukemia, where she showed her challenging and innovative research ability with leadership. . . .
>
> [The petitioner's postdoctoral] work [at has had far-reaching impact in that she improved the statistical tools used in the field, by inventing and implementing a crucial software to apply some of her theoretical work to the actual tangible materials. It is greatly meaningful and amazing that the classical theories can be applied directly to improve our real life. This was possible only with her special research background and her excellence. [The petitioner's] work is not limited to the improvement of the aircraft solid fuel performance, it also contributes to improving the qualities of human life by developing and providing more reliable composite materials for general infrastructure.

Given the petitioner's involvement in engineering projects, which by their nature involve applied sciences, it is not evident why the existence of practical applications for the petitioner's work is "amazing." The record does not show that the petitioner's application of her work to forest fires and cells "closely related to leukemia" extended beyond her master's thesis, or that experts in those fields have, in fact, applied the petitioner's findings. The portions of the petitioner's published work reproduced in the record mention neither of those things.

Dr. senior research scientist at at the stated:

> During her PhD, [the petitioner] published five papers in prestigious peer-reviewed scientific journals. Her master's work is also very impressive, which is about approximations of the Riemann Zeta function, which is closely related to the well-known conjecture, Riemann hypothesis.

> As a mathematician myself working in an engineering program, I know how [the petitioner's] strong pure and applied mathematical background can play an important role in the engineering field, making her unique. The focus of [the petitioner's] postdoctoral research in the center was on computing bounds for thermal-mechanical properties of heterogeneous composites, like solid rocket propellants, expanded polystyrene (EPS) concrete, etc. Since the solid rocket propellant consists of several different materials, it has been known that it is almost impossible to know the exact properties of the propellant. Instead, [the petitioner] was instrumental in developing appropriate mathematical and simulation tools to predict the upper and lower bounds of the various properties of the material. I strongly believe that nobody in the rocket center could possibly achieve the same amount of mathematical work in the same period of time. . . . Furthermore, her work can be utilized in evaluating safety and reliability of bridges, buildings, roads, etc., potentially benefiting the nation.

As quoted above, some passages in letter are nearly identical to passages in Prof. consistent with common authorship or at least reliance on template language. *Cf. Surinder Singh v. Board of Immigration Appeals*, 438 F.3d 145, 148 (2d Cir. 2006) (upholding an immigration judge's adverse credibility determination in asylum proceedings based in part on the similarity of some of the affidavits); *Mei Chai Ye v. U.S. Dept. of Justice*, 489 F.3d 517, 519 (2d Cir. 2007) (concluding that an immigration judge may reasonably infer that when an asylum applicant submits strikingly similar affidavits, the applicant is the common source). Dr. Jackson, like other witnesses, couched his discussion in terms of possible future applications rather than existing, demonstrated uses of the petitioner's work.

Professo the petitioner in , stated:

> [The petitioner] has a firm background in fluid mechanics and applied mathematics. She chose to work on the processing and analysis of large-scale direct numerical simulation data of a jet with a view to identifying the sources of noise and unraveling the underlying physical mechanisms. This subject has recently gained more attention due to its possible applications to environmental noise reduction problems. . . .
>
> She presented some results at [two conferences], which received widespread public commentary for their potential impact on the field.
>
> She has recently submitted a paper to Physics of Fluid and is now preparing for the second paper related to the project. I believe her work will be a landmark contribution to the fundamental understanding of jet acoustics. Others agree. . . .
>
> As the second project, she chose the topic of liquid crystal elastomers (LCE) wherein she would extract constitutive relations from microstructure data. To that end, she plans to customize the methodology developed during her previous postdoctoral work (as the University of [*sic*]). . . . This unique work has been applied to estimate the arranged behavior of composite materials such as solid

> propellants, other infrastructure materials, etc. Her LCE work has been proposed to be implemented in the reduction of traffic accidents through tinted windows and in screens for electronic devices, among other uses.

Prof. also contended that the petitioner had earned "peer recognition for reducing aircraft noise and improving driving environments." He cited no evidence, however, and provided no verifiable specifics to show that her work has already "reduc[ed] aircraft noise" or "improv[ed] driving environments"; elsewhere, Prof. stated only that the petitioner's "work has been proposed" (by whom, Prof. did not say) for those purposes. The record does not document any of the claimed "widespread public commentary," and Prof. did not identify the "others" who "agree" with the speculative claim that the petitioner's "work will be a landmark contribution to the fundamental understanding of jet acoustics." Prof. letter, therefore, contains numerous claims that lack evidentiary support, are so vague as to be unverifiable, or both.

The only witness who does not appear to have worked directly with the petitioner is Dr. an associate professor at Czech Republic. Dr. *curriculum vitae* shows that he co-authored a paper with who later collaborated with the petitioner. Dr. met the petitioner at a 2009 conference, where he

> was truly impressed by her presentation, novelty of her theoretical developments and results of the work. . . .
>
> [The petitioner's] work [at is of considerable impact not only on developing more reliable fuel for aircrafts, satellites, etc. but also on performance-driven materials design in Civil, Mechanical and Aerospace Engineering in general.
>
> [The petitioner] is also working in reconstructing a representative unit cell (RUC) from a large-scale samples [*sic*] of real materials. . . . The fully three-dimensional approach is rare and is essential for realistic representation of real-world materials in computational simulations of heterogeneous materials.
>
> . . . I know that this work requires a special ability to deal with qualitative and quantitative mathematical formulation, exceptional programming skills as well as creative inspiration for engineering problems.

Dr. letter, dated October 17, 2009 (more than two years before the petition's filing date), predates her current employment at As a result, Dr. couched his letter in terms of potential benefits to specialized areas (such as "fundamental research on Rocket science") that the petitioner is no longer pursuing.

On April 24, 2012, the director issued a request for evidence (RFE). Most of the RFE concerned the petitioner's claim of exceptional ability in the sciences, but on the final page, the director stated:

> [Y]ou must be able to demonstrate that you have a degree of influence on the field which distinguishes you from other postdoctoral researchers with comparable academic or professional qualifications. Your support letters consist of attestations of the scientific achievements you have made in the field; however, the record does not demonstrate that you are more skilled than others who perform the same or similar work. While USCIS acknowledges your talent and accomplishments, the record lacks any demonstrable prior achievements which would prove that you will serve the national interest to a substantially greater degree than would an available U.S. worker having the same qualifications. Consequently, please submit evidence to establish that your past record justifies projections of future benefit to the nation. You must establish the exact influence or impact your work has had on the field.

(Emphasis in original.) In response, counsel stated that the petitioner has "**developed methodologies which have been used in technology being currently used by others and which have vast, money-saving, health-improving applicability**" (counsel's emphasis). As an example, counsel stated that the petitioner's "work is used **to mathematically predict . . . biological cell movement, especially white blood cells resulting in new kinds of anti-inflammatory therapies**" (counsel's emphasis). Counsel identified no such therapy, and no institution using the petitioner's work in that way. The initial submission indicated only that the petitioner's master's thesis made such measurements possible. Referring to another example, counsel stated that "a [forest fire] prediction mechanism could save fire-fighting resources and save lives." Counsel cited no evidence that any jurisdiction actually uses the petitioner's "prediction mechanism." The intrinsic merit of the petitioner's work is not in dispute, but the petitioner cannot establish the impact of her work purely through examples that are either facially speculative or so vague as to be unverifiable.

With respect to the petitioner's published work, counsel stated: "The fact that other scientists have cited [the petitioner's] work is also evidence that her work is being implemented by others." Citation is, indeed, an important benchmark of the impact of scholarly work. At the same time, such impact is different from the impact discussed in the preceding paragraph; scholarly references to the petitioner's work are not necessarily evidence of real-world, practical implementation of the petitioner's ideas in such areas as medicine, aviation, and fire control. Strong evidence of either type of impact would be persuasive, for different reasons; but the petitioner has presented strong evidence of neither type. The petitioner submitted no new citation evidence in response to the RFE; counsel simply referred back to the previous submission. As noted previously, only two of the published citations came from outside research groups that worked with the petitioner.

Also with respect to her published work, the petitioner submitted background documentation about the reputation of one of the journals that carried her articles. The overall, aggregate reputation of a journal, or an employer or *alma mater*, is not strong evidence of the reception or impact of a particular article in that journal, or employee of the employer, or graduate of the school. The AAO will not conclude impact by association when the specific evidence of the petitioner's particular impact is weak or nonexistent.

Counsel stated: "it is important to note that Dr. wrote in a letter to the dean that the university performed an **'exhaustive search of many highly qualified candidates, and [the petitioner] retained the top position among all the candidates'"** (counsel's emphasis). The letter in question is a recommendation that (not, as counsel stated, the) hire the petitioner as an assistant professor. The letter indicated that the petitioner was the most qualified candidate for the position, but it is routine for a hiring authority to identify the most qualified candidate out of a given pool of applicants. Dr. letter does not show that the petitioner stands out among others in her profession as a whole, only that she was the most qualified of those who chose to apply for a particular position at one university. The petitioner did not show that this letter was significant evidence of eligibility for the waiver, rather than a fairly standard element of a routine hiring decision.

Furthermore, did not hire the petitioner until several months after the petition's December 27, 2011 filing date. The date on Dr. letter, which necessarily predates the formal job offer, is May 4, 2012, and other witness letters dated June 2012 refer, in the present tense, to the petitioner's ongoing employment at

Three other letters accompanied the response to the RFE. Dr. postdoctoral research associate at professed to be "astonished" by the petitioner's work on aircraft noise reduction, and stated: "I believe that [the petitioner's] approach to the subject is very intellectual and unique that distinguishes her from other researchers in the similar fields." Dr. claimed that the petitioner's "outstanding contributions . . . have been recognized nationally and internationally," but cited no evidence to support this claim except to observe that the petitioner had attended a number of conferences, and that she received a travel grant to attend one of them. The record does not show that such travel grants are recognition for "outstanding contributions," rather than a somewhat routine form of financial aid for presenters who do not live near the site of a given conference.

Dr. a consultant in acoustics and fluid mechanics who previously worked for the , stated:

> I attended a lecture given by [the petitioner] on her work and was fascinated. One of the most difficult problems in the field of aeroacoustics has been understanding the Lighthill quadrupole source which is all-important in jet engine noise production. [The petitioner] has developed an interesting and potentially very useful approach of expanding Lighthill's source into ten separate identifiable sources and looking at the importance of each through cross-correlation of the sources with the farfield sound. Since that time I have been working closely with [the petitioner] to further develop my own understanding and to consider how the insights developed by [the petitioner] might be utilized to bring about reduction of aircraft noise.
>
> [The petitioner's] work is ground-breaking and has been submitted for publication to the one of the most prestigious journals in the field, which attests to the uniqueness of her contributions to the field of aeroacoustics.

Dr. assertion that the petitioner's "insights . . . might be utilized to bring about reduction of aircraft noise" contradicts earlier claims suggesting that unnamed parties have already implemented the petitioner's ideas in this way. The record contains no evidence that the journal named above actually accepted the petitioner's article for publication. Its mere submission does not "attest[] to the uniqueness of [the petitioner's] contributions"; it attests only to its authors' opinion that the material is suitable for publication in that journal.

Dr. is head of research and infrastructure at New York, described as a "hedge fund that uses complex mathematical models to analyze and execute trades." Dr. stated:

> I have known [the petitioner] since summer 2007 when she was finishing her Ph.D. degree at . . . Since then, [the petitioner] and I have had numerous exchanges on a variety of mathematical projects in various scientific fields. Recently, [the petitioner] has visited in December 2011 to hold a seminar . . . I attended with colleagues of our firm. In the seminar, she introduced two topics, one in Acoustics and the other in Material Science. . . . [The petitioner's] presentation was very impressive since I have rarely seen a researcher whose research interest broadly encompass . . . such different fields. . . .
>
> Even though [the petitioner] and I are not working on the same fields, I and my colleagues have been inspired by her approach and methodology. . . . Obviously her insights would be of great interest for a company like ours.

Dr. offered general praise for the petitioner's abilities as being "beneficial to any place she chooses to work for," but identified no specific contributions that have had a measurable or verifiable impact in her field.

The director denied the petition on August 30, 2012, stating: "While your support letters laud your Ph.D. work and your recent work on jet acoustics, they do not explain how your work has resulted in your international recognition." The director also stated that the petitioner's citation evidence was lacking.

On appeal, counsel observes that "'international recognition' is not a requirement under the category sought." This assertion is true, but it is equally true that the petitioner submitted a letter from Dr. who claimed that the petitioner's "outstanding contributions . . . have been recognized nationally and internationally." When the petitioner signed the Form I-140 petition, she certified under penalty of perjury that the petition and the evidence submitted with it are all true and correct. Therefore, by introducing Dr. claim into the record, the petitioner has effectively attested under penalty of perjury that the claim is true. The petitioner cannot (either directly or through surrogates) claim "international recognition" in an attempt to secure immigration benefits, only to disclaim any responsibility to support or document that claim. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It

is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 582, 591-92.

Counsel states that the petitioner's work has been "extensively cited." Counsel points to "a lengthy list of citations showing seven publications [and] 15 citations to her work" (counsel's emphasis). As noted previously, before the denial of the petition the record contained evidence of only six published citations to her work, four of which were self-citations by co-authors. The updated list submitted on appeal includes seven self-citations by the petitioner and/or her co-authors, as well as three citations by only one degree removed from the petitioner through There remain only five citations from apparently independent research groups. Two of those five claimed citations are dated 2012, after the petition's December 2011 filing date, and the petitioner did not submit documentary evidence (such as photocopies of the articles or printouts from a citation database) to show that the newly claimed citations exist.

In discussing the petitioner's published work and its impact, counsel makes no further mention of the article that the petitioner had previously submitted for publication in the Absent any evidence that the journal accepted the article, there is no basis to conclude that the journal's editors shared the opinions of counsel and the petitioner's witnesses regarding the merits of that article.

Counsel quotes from some of the submitted witness letters, and the petitioner submits two further letters on appeal. Professor of the attended a 2010 presentation by the petitioner. Prof. discussed the petitioner's work on modeling the properties of "heterogeneous particulate composites":

> This homogenization problem has been a long standing quest in our field since it requires expertise in multiple subjects. . . . [The petitioner] has exceptional knowledge of the leading edge of the research enterprise coupled with practical skills, a very rare combination. Her work strives to obtain better images of materials with less noise, using rigorous mathematical modeling and sophisticated statistics. Her advances in the statistical morphology of real or simulated solid materials is the state of the art and directly applicable to robust materials for infrastructure applications.

In the letter quoted above, Prof. offers a subjective opinion of the value of the petitioner's work, but no articulated idea of how, exactly, the petitioner's work has advanced the field.

Dr. associate vice president of research and academic affairs at discussed the petitioner's role at that university. As noted previously, this employment began several months after the petition's filing date. Even then, Dr. letter does little more than declare that the petitioner was the best-qualified applicant for the position. This conclusion is self-evident, because if the petitioner were not the best qualified applicant then the university would have had little incentive to hire her. Dr. states that the petitioner "is

critical to the continued success of the [redacted] mathematics program" but does not elaborate except to state that to recruit a replacement would consume time and resources.

The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and have received consideration above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as above, evaluate the content of those letters as to whether they support the alien's eligibility. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). *See also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The letters discussed above primarily contain bare assertions that the petitioner's work has been influential and has attracted widespread attention, without specifically identifying verifiable examples of how the petitioner's efforts have influenced the field. Throughout this proceeding, the documentary evidence of record has failed to match the claims of counsel and various witnesses with respect to the importance of the petitioner's various contributions.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.